

SSB 5963 - H AMD TO CL COMM AMD (H-2961.2/09) **526**
By Representative Anderson

Beginning on page 16, line 19 of the amendment, strike all material through "115" on page 17, line 11 and insert the following:

"(d) For all other employers not qualified to be in the array, the contribution rate shall be the contribution rate specified in this subsection, but not less than one percent:

(i) In the first two consecutive rate years in which an employer is not qualified, the array calculation factor rate shall be a rate equal to fifty percent of the average industry array calculation factor rate as determined by the commissioner; and

(ii) In the second two consecutive rate years in which an employer is not qualified, the array calculation factor rate shall be a rate equal to seventy-five percent of the average industry array calculation factor rate as determined by the commissioner."

On page 17, after line 18 of the amendment, insert the following:

"Sec. 3. RCW 50.29.062 and 2006 c 47 s 2 are each amended to read as follows:

Except as provided in RCW 50.29.063, predecessor and successor employer contribution rates shall be computed in the following manner:

(1) If the successor is an employer, as defined in RCW 50.04.080, at the time of the transfer of a business, the following applies:

(a) The successor's contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs; and

(b) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on a combination of the following:

(i) The successor's experience with payrolls and benefits; and

(ii) Any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the

1 experience attributable to the acquired portion is assigned to the
2 successor.

3 (2) If the successor is not an employer at the time of the
4 transfer, the following applies:

5 (a) For transfers before January 1, 2005:

6 (i) Except as provided in (ii) of this subsection (2)(a), the
7 successor shall pay contributions at the lowest rate determined under
8 either of the following:

9 (A) The contribution rate of the rate class assigned to the
10 predecessor employer at the time of the transfer for the remainder of
11 that rate year. Any experience relating to the assignment of that rate
12 class attributable to the predecessor is transferred to the successor.
13 Beginning with the January 1st following the transfer, the successor's
14 contribution rate shall be based on a combination of the transferred
15 experience of the acquired business and the successor's experience
16 after the transfer; or

17 (B) The contribution rate equal to the average industry rate as
18 determined by the commissioner, but not less than one percent, and
19 continuing until the successor qualifies for a different rate in its
20 own right. Assignment of employers by the commissioner to industrial
21 classification, for purposes of this subsection, must be in accordance
22 with established classification practices found in the North American
23 industry classification system issued by the federal office of
24 management and budget to the fourth digit provided in the North
25 American industry classification system.

26 (ii) If the successor simultaneously acquires the business or a
27 portion of the business of two or more employers in different rate
28 classes, its rate from the date the transfer occurred until the end of
29 that rate year and until it qualifies in its own right for a new
30 rate((7)) shall be the rate of the highest rate class applicable at the
31 time of the acquisition to any predecessor employer who is a party to
32 the acquisition, but not less than one percent.

33 (b) For transfers on or after January 1, 2005:

34 (i) Except as provided in (ii) and (iii) of this subsection (2)(b),
35 the successor shall pay contributions:

36 (A) At the contribution rate assigned to the predecessor employer
37 at the time of the transfer and not the new employer rate for the
38 remainder of that rate year, so long as the successor retains at least

1 sixty percent of the predecessor's employees. Any experience
2 attributable to the predecessor relating to the assignment of the
3 predecessor's rate class is transferred to the successor.

4 (B) Beginning January 1st following the transfer, the successor's
5 contribution rate for each rate year shall be based on an array
6 calculation factor rate that is a combination of the following: The
7 successor's experience with payrolls and benefits; and any experience
8 assigned to the predecessor involved in the transfer. If only a
9 portion of the business was transferred, then the experience
10 attributable to the acquired portion is assigned to the successor if
11 qualified under RCW 50.29.010(6) by including the transferred
12 experience. If not qualified under RCW 50.29.010(6), the contribution
13 rate shall equal the sum of the rates determined by the commissioner
14 under RCW 50.29.025(2) (~~((c)(ii) and (d)(ii))~~) (d)(i), and 50.29.041,
15 if applicable, and continuing until the successor qualifies for a
16 different rate, including the transferred experience.

17 (ii) If there is a substantial continuity of ownership, control, or
18 management by the successor of the business of the predecessor, the
19 successor shall pay contributions at the contribution rate determined
20 for the predecessor employer at the time of the transfer for the
21 remainder of that rate year. Any experience attributable to the
22 predecessor relating to the assignment of the predecessor's rate class
23 is transferred to the successor. Beginning January 1st following the
24 transfer, the successor's array calculation factor rate shall be based
25 on a combination of the transferred experience of the acquired business
26 and the successor's experience after the transfer.

27 (iii) If the successor simultaneously acquires the business or a
28 portion of the business of two or more employers with different
29 contribution rates, the successor's rate from the date the transfer
30 occurred until the end of that rate year and until it qualifies in its
31 own right for a new rate, shall be the sum of the rates determined by
32 the commissioner under RCW 50.29.025(2) (a) and (b), and 50.29.041,
33 applicable at the time of the acquisition, to the predecessor employer
34 who, among the parties to the acquisition, had the largest total
35 payroll in the completed calendar quarter immediately preceding the
36 date of transfer, but not less than the sum of the rates determined by
37 the commissioner under RCW 50.29.025(2) (~~((c)(ii) and (d)(ii))~~) (d)(i),
38 and 50.29.041, if applicable.

(3) With respect to predecessor employers:

(a) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(b) In all cases, beginning January 1st following the transfer, the predecessor's contribution rate or the predecessor's array calculation factor for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year excluding the experience of the transferred business or transferred portion of business as that experience has transferred to the successor: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until it satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

(4) For purposes of this section, "transfer of a business" means the same as RCW 50.29.063(4)(c)."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 25, after line 6 of the amendment, insert the following:

"Sec. 6. RCW 50.04.310 and 2007 c 146 s 5 are each amended to read as follows:

(1) An individual is "unemployed" in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual, or in any week of less than full time work, if the remuneration payable to the individual with respect to such week is less than one and one-third times the individual's weekly benefit amount plus five dollars. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary.

(2) An individual is not "unemployed" during any week which falls totally within a period during which the individual, pursuant to a collective bargaining agreement or individual employment contract, is employed full time in accordance with a definition of full time contained in the agreement or contract, and for which compensation for

1 full time work is payable. This subsection may not be applied
2 retroactively to an individual who had no guarantee of work at the
3 start of such period and subsequently is provided additional work by
4 the employer.

5 (3)(a) An officer of a corporation who owns ten percent or more of
6 the outstanding stock of the corporation, or a corporate officer who is
7 a family member of an officer who owns ten percent or more of the
8 outstanding stock of the corporation, whose claim for benefits is based
9 on any wages with that corporation, is:

10 ((+a)) (i) Not "unemployed" in any week during the individual's
11 term of office or ownership in the corporation, even if wages are not
12 being paid;

13 ((+b)) (ii) "Unemployed" in any week upon dissolution of the
14 corporation or if the officer permanently resigns or is permanently
15 removed from their appointment and responsibilities with that
16 corporation in accordance with its articles of incorporation or bylaws.

17 (b) This subsection does not apply to officers of corporations with
18 annual revenues of less than two million five hundred thousand dollars.

19 (4) As used in this section, "family member" means persons who are
20 members of a family by blood or marriage as parents, stepparents,
21 grandparents, spouses, children, brothers, sisters, stepchildren,
22 adopted children, or grandchildren."

23 Renumber the remaining sections consecutively and correct any
24 internal references accordingly.

25 Correct the title.

EFFECT: Changes new employer contribution rates to 50 percent of
average industry rates in the first two rate years, and 75 percent in
the next two years.

Specifies that successors may retain predecessor contribution rates
only if they retain 60 percent of the employees.

Makes the subsection requiring dissolution of the corporation or
resignation of the officer for the officer to be "unemployed"
inapplicable to officers of corporations with less than \$2.5 million in
annual revenues.

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